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9 Attorneys for Capital One Auto Finance, a  
10 division of Capital One, N.A.

11 **UNITED STATES BANKRUPTCY COURT**

12 **DISTRICT OF ARIZONA**

13 In re:

14 William Adrian Harton and Ariel Keyana  
15 Harton,

16 Debtors.

17 Capital One Auto Finance, a division of Capital  
18 One, N.A.,

19 Movant,

20 v.

21 William Adrian Harton and Ariel Keyana  
22 Harton,

23 Respondents.

**Chapter 7 Proceeding**

No. 2:20-bk-02514-DPC

**MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

**Property Description:**

2014 Chevrolet Malibu VIN

1G11B5SL6EF157029

**(hereafter the "Collateral")**

24 Capital One Auto Finance, a division of Capital One, N.A. (hereafter the "**Movant**" or  
25 "**Creditor**") is a creditor possessing a lien upon property more particularly described below.  
26 Movant contends it is entitled relief from the automatic stay because the contract secured by the  
Collateral is in default. Relief is requested under 11 U.S.C. §362(d)(1) and (d)(2) and (h)(1).  
Movant requests the court to find:

a. That cause exists to terminate the automatic stay;

1 b. If the Court declines to lift the stay immediately, adequate protection payments be  
2 made pursuant to Bankruptcy Code § 361;

3 c. Waiving the fourteen (14) day provision of Bankruptcy Rule 4001(a)(3) that would  
4 stay the effectiveness of any Order is appropriate;

5 d. That any Order lifting the stay will be binding in the event this matter is converted  
6 to another proceeding under the Bankruptcy Code; and,

7 e. That Movant may file an amended proof of claim for any deficiency balance within  
8 thirty (30) days of disposition of the Collateral, or by the claims bar date, whichever is  
9 later.

10 The following Memorandum of Points and Authorities support this Motion.

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157(b)(2)(G)  
13 and 11 U.S.C. § 362.

14 2. **William Adrian Harton and Ariel Keyana Harton** shall be referred to as are the  
15 “**Debtors**”. Ariel Harton executed and delivered to Creditor a contract (hereafter the “**Contract**”).

16 3. Repayment of all amounts due on the Contract is secured with the following  
17 described collateral:

18 **2014 Chevrolet Malibu VIN 1G11B5SL6EF157029**

19 (hereafter referred to as the “**Collateral**”)

20 4. Exhibit 1 is a true and correct copy of the Contract and it is incorporated herein by  
21 reference.

22 5. The Creditor’s lien on the Collateral is properly perfected. See Exhibit 2: Records  
23 from the Arizona Department of Transportation, Motor Vehicle Division reflecting Creditor’s lien.

24 6. Movant is the owner and holder of the Contract and the documents securing  
25 repayment of all amounts due.  
26

7. Payments have not been made pursuant to the terms of the Contract and the failure to make timely payments prejudices Creditor.

8. There is little or no equity in the Collateral.

9. The amount of the debt as of the Petition date was \$11,560.88.

10. The Kelley Blue Book (“**KBB**”) values the Collateral at \$7,589.00. See Exhibit 3: Valuation Evidence.

11. Debtors intend to surrender the Collateral to Creditor. See Exhibit 4.

12. Movant is entitled to relief from the Automatic Stay for cause.

13. Movant further request the Court waive the provisions of Bankruptcy Rule 4001(a)(3), which would stay the order for relief until the expiration of 14 days after the entry of the order.

14. Movant requests proof of insurance be provided. If proof of insurance is not provided, Movant asserts as an additional ground for stay relief, the failure to provide insurance on the Collateral.

15. A copy of the proposed form of order is attached.

## LEGAL ANALYSIS

Pursuant to Bankruptcy Code § 362(d)(1) relief from the automatic stay shall be granted “for cause,” including, without limitation, lack of adequate protection. *See*, 11 U.S.C. §362(d)(1). In addition, a party with an interest in property is entitled to relief from the automatic stay if: (i) the debtor lacks equity in the property, *and* (ii) the property is not necessary for an effective reorganization that is in prospect. *See*, 11 U.S.C. § 362(d)(2); *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assoc., Ltd.*, 484 U.S. 365, 108 S. Ct. 626, 98 L.Ed.2d 740 (1988).

## REQUEST FOR RELIEF

For the reasons set forth above, Movant respectfully requests the following:

A. That cause exists to terminate the automatic stay;

1 B. If the Court declines to lift the stay immediately, adequate protection payments be  
2 made pursuant to Bankruptcy Code § 361;

3 C. Waiving the fourteen (14) day provision of Bankruptcy Rule 4001(a)(3) that would  
4 stay the effectiveness of any Order is appropriate;

5 D. That any Order lifting the stay be binding in the event this matter is converted to  
6 another proceeding under the Bankruptcy Code; and

7 E. That Movant may file an amended proof of claim for any deficiency balance within  
8 thirty (30) days of disposition of the Collateral, or by the claims bar date, whichever is later.

9 Dated: August 19, 2020.

10  
11 WINDTBERG & ZDANCEWICZ, PLC  
12 /s/ Michael Zdancewicz (#012426)  
13 Michael Zdancewicz  
14 Post Office Box 51826  
Phoenix, Arizona 85076  
Attorneys for Capital One Auto Finance, a  
division of Capital One, N.A.

15 Certificate of Service

16 I certify that on August 19, 2020, a true and correct copy of the above and foregoing was  
17 served upon the following parties via electronic means as listed on the Court's ECF noticing  
18 system, if available, otherwise by regular first-class mail:

19 Dina Anderson  
21001 North Tatum Blvd., #1630-608  
Phoenix AZ 85050

William E. Markov  
Hartley Markov Law  
11225 N 28th Dr. #B103  
Phoenix AZ 85029

20 William Adrian Harton  
21 13625 South 48th Street, Apt #2025  
22 Phoenix, AZ 85044-5060

Ariel Keyana Harton  
13625 South 48th Street, Apt #2025  
Phoenix AZ 85044-5060

23 /s/ Michael Zdancewicz  
24  
25  
26





# ARIZONA CERTIFICATE OF TITLE

**ADOT**

**Motor Vehicle Division**

Exhibit 2

Inventory Control

Vehicle Identification Number

1G11B5SL6EF157029

Year

2014

Make

CHEV

Model

Malibu

Body Style

4DSD

CAPITAL ONE AUTO FINANCE

PO BOX 660068

SACRAMENTO, CA 95866

Title Number

024D018002045

Issue Date

1/2/2018

Odometer Reading (no tenths)

5

Actual

Previous Title Number

State

Issue Date

Arizona Brands

Other States With Brands

Owners

Ariel Keyana Harton

Laveen, AZ

Owner

Lienholder(s) as of the print date and lien effective date (Additional liens may exist Check Vehicle Title Status on <https://azmvdnow.az.gov> to find all current liens.)

CAPITAL ONE AUTO FINANCE INC

Po Box 660068

Sacramento, CA

VOID WITHOUT EAGLE WATERMARK OR IF ALTERED OR ERASED

Exhibit 3

Home / What's My Car Worth / Category & Style / Options & Condition / LS Sedan 4D

Advertisement

My Car's Value  
**2014 Chevrolet Malibu**  
**LS Sedan 4D**

near **Phoenix, AZ 85003**

Mileage: **95,000**

[Edit Options](#)

**4.3** ★ (179 Ratings) [Write a review](#)

1 **Compare Your Values**

Use these values to help make a confident decision on whether to sell, trade or donate your car.

Instant Cash Offer

Trade-in

**Private Party**

Donate Your Car



**6 Recalls Found**  
[Is my car affected?](#)



**Service & Repair Estimator**  
[What's a fair price?](#)  
Next Service: 97,500



Condition: **Good**

Valid for ZIP Code **85003** through **08/06/2020**

**4.3** ★ (179 Ratings)  
[Write a review](#)



2 See How Others Price Your Car

Set a competitive price when you know what others are asking.

Used 2014

Chevrolet Malibu

\$8,799

Mileage: 90,632

16 miles away

Used 2014

Chevrolet Malibu

\$11,595

Mileage: 86,604

20 miles away

Browse All Listings →

3 Place an Ad

Reach serious car shoppers on both KBB.com and Autotrader.

| Basic   | Featured | Premium |
|---------|----------|---------|
| \$25.00 | \$50.00  | \$90.00 |

Get Started

Dealer Home Services: We Come To You

Video Walkaround

Test Drive at Home

Local Home Delivery

## Maintenance from Your Door

Need maintenance or repair on your current car? A dealer will pick up your vehicle, perform repairs or maintenance services and bring it back to you. It delivers peace of mind and keeps your car running its best.

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## New Car Price Quote

2020 Chevrolet Malibu

L

[Change Vehicle](#)

### Get the best deal on a new car!

Compare prices from three local dealers.

[Change ZIP Code](#)

☐ **Courtesy Chevrolet AZ**

1233 E Camelback Rd

Phoenix, AZ 85014

4 miles away

☐ **Chapman Chevrolet, L.L.C.**

1717 E Baseline Rd

Tempe, AZ 85283

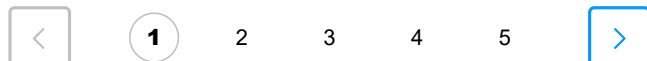
10 miles away

☐ **Midway Chevrolet**

2323 W Bell Rd

Phoenix, AZ 85023

13 miles away



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history report.

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great value from State  
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**AIS Portfolio Services, LP**

4515 N Santa Fe Ave  
Oklahoma City, OK 73118



March 19, 2020

**WILLIAM E MARKOV**  
**HARTLEY MARKOV LAW**  
**11225 NORTH 28TH DRIVE SUITE B-103,**  
**PHOENIX, AZ, 85029**

RE: Debtor: **Ariel K Harton**  
Case No.: **20-02514-DPC-7**  
Creditor: **Capital One Auto Finance, a division of Capital One, N.A.**  
Account No.:   
File No.:

Dear Sir/Madam:

AIS Portfolio Services, LP is the Bankruptcy Servicer of the above-mentioned Creditor. Please be advised that it is our understanding that the Debtor(s) intent is to voluntarily surrender the following property (the "Collateral") securing the Creditor's claim in bankruptcy: 2014 CHEVROLET Malibu Sedan 4D LS - 1G11B5SL6EF157029

The purpose of this letter is to confirm the Debtor(s) intention to surrender the Collateral, and to obtain your permission to contact the Debtor(s) directly in the event the Collateral has not yet been turned over to the Creditor. Additionally, Creditor requests confirmation from you that the Debtor(s) has no objection to the liquidation of the Collateral pursuant to applicable law.

Please acknowledge this letter where indicated below as evidence that you have no objection to the above-described actions taking place at this time; please also provide a current address where the Collateral is located, and a phone number where we can contact the Debtor(s) to make surrender arrangements if necessary. Please return the acknowledged letter by fax, email (email address to be added) or US mail to the number or address at the top of this letter.

Alternatively, if the Debtor has decided not to surrender the Collateral or if the provisions of this letter are unacceptable for any reason, please contact AIS immediately.

Sincerely,  
AIS Portfolio Services, LP

ACKNOWLEDGED AND AGREED TO BY:

WILLIAM E MARKOV

(Attorney for the Debtor(s))

Collateral Location: 13625 S 48TH ST, APT 2025 PHOENIX, AZ 85044

Debtor:

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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF ARIZONA**

In re:

William Adrian Harton and Ariel Keyana  
Harton,  
  
Debtors.

**Chapter 7 Proceeding**

No. 2:20-bk-02514-DPC

**[PROPOSED]**

**ORDER GRANTING MOTION FOR  
RELIEF FROM THE AUTOMATIC  
STAY**

**Property Description:**

Capital One Auto Finance, a division of Capital  
One, N.A.,  
  
Movant,  
  
v.  
  
William Adrian Harton and Ariel Keyana  
Harton,  
  
Respondents.

2014 Chevrolet Malibu VIN  
1G11B5SL6EF157029

Pursuant to the Motion for Relief from the Automatic Stay (the “**Motion**”) filed by Capital One Auto Finance, a division of Capital One, N.A. (the “**Creditor**” or “**Movant**”) relating to the Collateral described as 2014 Chevrolet Malibu VIN 1G11B5SL6EF157029 (hereafter the “**Collateral**”) having been duly noticed and there being no objection:

IT IS ORDERED terminating the automatic stay as to the Collateral.

IT IS FURTHER ORDERED that all stays, including without limitation, confirmation orders, injunctions, restraining orders, and the automatic stays provided by 11 U.S.C. § 362 and § 524, be vacated with respect to the Collateral, or modified to permit Creditor or its successors and

1 assigns, agents, attorneys, employees and such other persons as the Court shall deem appropriate to  
2 take any and all lawful actions to enforce its valid legal remedies with regard to the Collateral  
3 under the subject Contract, and non-bankruptcy law, including without limitation the rights (to  
4 declare all sums to be immediately due and payable) and to obtain possession of the Collateral  
5 through any lawful action.

6 IT IS FURTHER ORDERED waiving the fourteen (14) day provision of Bankruptcy Rule  
7 4001(a)(3) that would stay the effectiveness of this Order because the Debtors intend on  
8 surrendering the Collateral to Creditor.

9 IT IS FURTHER ORDERED this Order is binding in the event this matter is converted to  
10 another proceeding under the Bankruptcy Code.

11 IT IS FURTHER ORDERED Movant may file an amended proof of claim for any  
12 deficiency balance within thirty (30) days of disposition of the Collateral, or by the claims bar date,  
13 whichever is later.

14 **[Signed and dated above]**  
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